

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

**PLAINTIFF'S MOTION REQUESTING LEAVE TO FILE
PLAINTIFF WAYNE VAN SCOY'S SUPPLEMENT TO HIS
ANSWERING BRIEF IN OPPOSITION TO MOTION OF DEFENDANTS
VAN SCOY DIAMOND MINE OF DELAWARE, INC., KURT VAN SCOY
AND DONNA VAN SCOY FOR SUMMARY JUDGMENT**

Plaintiff respectfully requests that the Court grant leave to file the attached Plaintiff Wayne Van Scoy's Supplement to His Answering Brief in Opposition to Motion of Defendants Van Scoy Diamond Mine of Delaware, Inc., Kurt Van Scoy and Donna Van Scoy for Summary Judgment. The purpose of the supplement is to clarify and elaborate on the applicability of the Doctrine of Progressive Encroachment.

ASHBY & GEDDES

/s/ *John G. Day*

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Dated: March 7, 2006

167303.1

CERTIFICATION PURSUANT TO LOCAL RULE 7.1.1

I hereby certify that counsel have discussed the attached motion, but an agreement could not be reached.

/s/ John G. Day

John G. Day

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of March, 2006, the attached **PLAINTIFF'S MOTION REQUESTING LEAVE TO FILE PLAINTIFF WAYNE VAN SCOY'S SUPPLEMENT TO HIS ANSWERING BRIEF IN OPPOSITION TO MOTION OF DEFENDANTS VAN SCOY DIAMOND MINE OF DELAWARE, INC., KURT VAN SCOY AND DONNA VAN SCOY FOR SUMMARY JUDGMENT** was served upon the below-named counsel of record at the address and in the manner indicated:

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/s/ John G. Day

John G. Day